

February 6, 2013

Honorable Denise L. Cote,  
Daniel Patrick Moynihan U.S. Courthouse,  
500 Pearl Street, Room 1610,  
New York, NY 10007-1312

Re: FHFA v. UBS, et al., No. 11-cv-5201

Your Honor:

The undersigned Defendants in the above-referenced actions write to join in Ally Securities, LLC's ("Ally Securities") February 5, 2013 application for a conference with the Court concerning FHFA's inadequate response to Interrogatory No. 1 of Defendants' First Set of Interrogatories. FHFA initially responded to the interrogatory by identifying 31 individuals at Fannie Mae and 42 individuals at Freddie Mac who "may have" participated in the purchase of one or more of the 449 securities at issue. (Exhibit A, Plaintiff's Third Amended Responses to Defendants' First Set of Interrogatories.) FHFA also points to its production of "trade tickets" that FHFA says will identify the individual who executed the purchase of each Certificate. Neither response is adequate.

Defendants are entitled to know the names of the individuals who actually participated in each of the deals at issue, not just those whom FHFA contends "may have" had a role. FHFA's reference to "trade tickets" does not suffice because, as FHFA has acknowledged, the traders named on the tickets were not the individuals who (a) read and relied on the offering documents, (b) performed any due diligence, or (c) authorized the purchases. Certainly, Defendants, many of whom have been accused of committing fraud, are entitled to know the identity of any individuals who were purportedly induced to make a purchasing decision by any alleged misstatement. *Water Street Leasehold LLC v. Deloitte & Touche LLP*, 796 N.Y.S.2d 598, 599-600 (App. Div. 2005); *see also Meyercord v. Curry*, 832 N.Y.S.2d 29, 31 (App. Div. 2007). If FHFA cannot prove such reliance, the fraud claims cannot survive. Additionally, this information is critical to Section 11 claims; proving that the individuals who worked on the deals had knowledge of the misstatements and omissions plaintiffs now allege is a Section 11 defense.

FHFA wrongly calls answering the interrogatory too burdensome because, according to FHFA, it would have to conduct numerous interviews to ascertain who worked on the Securitizations and what they did. At the same time, FHFA says Defendants should seek this information by deposition, but without exceeding the 20 deposition limit that applies to fact witnesses for Fannie Mae, Freddie Mac and FHFA itself, and without resort to a unified 30(b)(6) deposition. FHFA's inconsistent stances, the expedited discovery schedule and the limited number of depositions make it impossible for Defendants to obtain this necessary discovery by other ordinary means.

Defendants accordingly join in Ally Securities' request for a conference and for an order compelling FHFA to provide adequate responses to Interrogatory No. 1. These Defendants request that the Court compel FHFA to provide those responses for Certificates allegedly purchased by Fannie Mae and Freddie Mac.

Dated: February 6, 2013  
New York, New York

Respectfully submitted,

/s/ Penny Shane

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